
(2022) 03 TEL CK 0096
In the Telangana High Court
Case No : Writ Petition No. 15363 Of 2021

Chetna Gupta

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 30-03-2022

Acts Referred:

Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 — Section 11(1), 15(1), 19(1), 21

Citation : (2022) 03 TEL CK 0096

Hon'ble Judges : A. Abhishek Reddy, J

Bench : Single Bench

Advocate : Sriram Polali

Final Decision : Allowed

Judgement

Aggrieved by the order Award bearing Proc.No.B3/422/2017 dated 07.05.2021 issued by respondent No.3, the present Writ Petition is filed.

The specific case of the petitioners, in brief, is that vide order dated 30.03.2021 in W.P. No.7764 of 2021 filed questioning the very same notice bearing No.B3/422/2017, this Court directed the Revenue Divisional Officer, Sangareddy District, not to take up the Award Enquiry, which was scheduled to be conducted on the very same day i.e. 30.03.2021. As such, the Award Enquiry was not conducted on 30.03.2021 and the petitioners were deprived of the opportunity of filing their objections. Therefore, the Award dated 07.05.2021 passed by respondent No.3 without hearing the petitioners is not sustainable and liable to be set aside.

Heard the learned counsel for the petitioners, the learned Government Pleader of Land Acquisition, the learned Government Pleader for Roads & Buildings, and the learned Government Pleader for Revenue, for the respondents.

The learned counsel for the petitioners has vehemently argued that passing of the impugned Award is bad, illegal, arbitrary, contrary to the order dated

30.03.2021 passed by this Court in W.P. No.7764 of 2021 and also Section 21 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, 2013 Act'). Learned counsel has drawn the attention of this Court to the counter filed by respondent No.3 wherein the contention of the petitioners that the Award enquiry did not take place on 30.05.2021 has not been denied. Learned counsel for the petitioners has stated that the date for conducting the Award Enquiry was scheduled to be held on 30.03.2021, but no Award Enquiry took place on that date as it was brought to the notice of the authority concerned that this Hon'ble Court has passed interim orders on 30.03.2021 in W.P. No.7764 of 2021 not to take up the award enquiry scheduled to be conducted on the very same day i.e. 30.03.2021. Learned counsel has further stated that the petitioners were under the impression that notices of Award Enquiry will be intimated again but the Award was passed thereby the petitioners have lost an opportunity of filing their claim petitions along with the relevant documents to substantiate their claims and therefore sought to set aside the impugned Award dated 07.05.2021.

Per contra, the learned Government Pleader has vehemently opposed the very maintainability of the Writ Petition and stated that if the petitioners are so advised they can always file an appropriate application seeking enhancement of the compensation, but they cannot challenge the Award, more so, after participating in the Award Enquiry. Learned Government Pleader has stated that at no point of time the petitioners have filed their objections to the notice under Section 15(1) nor challenged the Declaration under Section 19(1) of the 2013 Act. Therefore, the question of challenging the Award at this stage does not arise. Learned Government Pleader has also stated that the petitioners were put on notice in the enquiry and they have participated in the said proceedings. That the interim stay granted by this Court in W.P. No.7764 of 2021 dated 30.03.2021 is not applicable to the petitioners as they are not the petitioners in the said Writ Petition. Therefore, the Land Acquisition Officer has passed the Award in respect of the petitioners.

Heard both sides and perused the material on record.

A perusal of the order passed by this Court on 30.03.2021 in W.P. No.7764 of 2021 shows that even though the petitioners are not parties to the said writ petition, this Court had directed the Revenue Divisional Officer concerned not to take up the Award Enquiry, which was scheduled to be held on that day i.e. 30.03.2021. Even in the counter filed by respondent No.3, it is stated that in respect of the petitioners in W.P. No.7764 of 2021, no enquiry has taken place, but insofar as the petitioners herein are concerned, they have passed the Award.

A perusal of the prayer sought for in W.P. No.7764 of 2021 shows that the said Writ Petition was filed challenging the notice of Award Enquiry bearing No.B3/422/2017 dated 26.03.2021 and this Court had directed the Land Acquisition Officer-cum-Revenue Divisional Officer concerned not to take up the Award Enquiry on 30.03.2021. Even though the petitioners are not party to the

said writ petition, the fact remains that the very same notice issued to the petitioners was challenged i.e. notice bearing No.B3/422/2017 in the Writ Petition No.7764 of 2021 and this Court has directed the authority not to take up the Award Enquiry. Though technically the Revenue Divisional Officer may be correct in passing the Award in respect of the petitioners as they are not the petitioners in W.P. No.7764 of 2021, but the propriety demanded that the Revenue Divisional Officer should have just postponed the proceedings to another day instead of conducting the enquiry in respect of the petitioners and passing the Award which is impugned in the present Writ Petition.

Admittedly, the petitioners in this Writ Petition have not raised objections with regard to the notification under Section 11(1), nor filed objections to the notice under Section 15(1) and challenged the declaration under Section 19(1) of the 2013 Act. Having regard to the same, this Court is of the opinion that the ends of justice would be met, if the impugned Award dated 07.05.2021 is set aside and the matter is remanded back to the authority concerned for passing an Award afresh duly putting the petitioners on notice and giving them an opportunity of filing their claim petitions along with necessary documents to substantiate their claim and then pass the Award.

At this stage, the learned Government Pleader has expressed urgency stating that almost 90% of the project works are completed except the portion where the petitioners' lands are situated, and therefore the date of notice as well as the date of hearing may be fixed by this Court so as to save the time and also enable the authorities to pass the award and pay compensation to the petitioners, at the earliest.

Having regard to the above submission and as the only issue as culled out from the pleadings is with regard to the quantum of compensation payable to the petitioners, the authorities are directed to serve the notice on the petitioners by 01.04.2022 fixing the date of hearing of Award Enquiry on 11.04.2022, on which date, the petitioners shall appear before the authorities concerned and submit their claim petitions along with necessary documents to substantiate their claim. The authorities concerned shall also serve notice on the learned counsel appearing for the petitioners so as to enable him to intimate his clients accordingly. Thereafter, the authorities are directed to pass a fresh Award duly taking into consideration the documents filed by the petitioners within a period of 15 days from date of Award Enquiry fixed on 11.04.2022. However, it is made clear that this order does not preclude the authorities from negotiating with the petitioners and paying a Consent Award, if they are so advised.

With the above directions, the Writ Petition is allowed. Miscellaneous petitions pending in this writ petition, if any, shall stand closed. There shall be no order as to costs.